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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,387	05/22/2001	Richard McEwan	604.35-US1	8008
34284	7590	12/29/2003	EXAMINER	
ROBERT D. FISH; RUTAN & TUCKER, LLP P.O. BOX 1950 611 ANTON BLVD., 14TH FLOOR COSTA MESA, CA 92628-1950			CHEUNG, MARY DA ZHI WANG	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/856,387	MCEWAN ET AL.	
	Examiner	Art Unit	
	Mary Cheung	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Office Action Summary

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 May 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-19 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

4) Interview Summary (PTO-413) Paper No(s). ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claims 1-4, 6-9 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alberts, U. S. Patent 5,937,392 in view of Angles et al., U. S. Patent 5,933,811.

As to claim 1, Alberts teaches a method of conducting an advertising campaign, comprising (abstract):

- a) Providing a multi-tiered marketing environment wherein the marketing environment comprises a human marketing agent (*item 14 in Fig. 1*) and a manager (*item 16 in Fig. 1*) cooperating on the advertising campaign (column 3

lines 58-60 and Fig. 1; specifically, “*a multi-tiered marketing environment corresponds to the Advertising Server Central Controller and the AD Servers marketing environment in Alberts’ teaching*”;

- b) Providing the marketing agent with a set of advertising messages (column 3 lines 29-60 and Figs. 2-3);
- c) The marketing agent taking an active role in selecting a message from the set of advertising messages; and electronically sending the message to the recipient (column 3 lines 22-25 and column 4 lines 33-54 and Figs. 1-4);
- d) The recipient electronically responding to the message (column 4 lines 25-27);
- e) Tracking the recipient electronically responding to the message (column 4 lines 11-27);
- f) The manager exercising at least some control over the set of advertising messages provided to the marketing agent; and an authorized number of sends allocated to the marketing agent (column 3 lines 28-60).

Alberts does not explicitly teach providing the marketing agent with a set of prospect information. However, this matter is taught by Angles as providing the registration module with consumer profile information (column 3 lines 18-23, 54-61 and column 17 lines 3-10, 18-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the marketing agent in Alberts’ teaching to be provided with a set of prospect information so that the advertisements can be more efficiently targeted to recipients.

As to claim 2, Alberts teaches the multi-tiered *marketing* environment includes at least two tiers (Fig. 1; *specifically, one tier corresponds to Advertising Server Central Controller, and the other tier corresponds to AD Servers in Alberts' teaching*).

As to claim 3, Alberts teaches the multi-tiered marketing environment includes at least two different companies (Fig. 1; *specifically, different companies corresponds to the plurality of the AD Servers in Fig. 1*).

As to claim 4, Alberts modified by Angles teaches a set of prospect information as discussed above. Alberts does not explicitly teach the set of prospect information comprises a plurality of data items stored in a prospects database. However, this matter is taught by Angles as providing the registration module with consumer profile information, and the consumer profile information comprises a plurality of data items stored in a registration database (column 3 lines 18-23, 54-61 and column 17 lines 3-10, 18-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the marketing agent in Alberts' teaching to be provided with a set of prospect information, and the set of prospect information comprises a plurality of data items stored in a prospects database so that the advertisements can be more efficiently targeted to recipients.

As to claim 6, Alberts teaches the set of advertising messages includes a rich media electronic advertisement (column 1 lines 9-16 and column 2 lines 62-65).

As to claim 7, Alberts teaches the set of advertising messages includes an executable a rich media electronic advertisement (column 1 lines 9-16 and column 2 lines 62-65 and column 4 lines 25-27).

As to claim 8, Alberts teaches the marketing agent selecting an advertising message and sending it to a recipient as discussed above. Alberts does not specifically teach the marketing agent selecting the recipient as part of a group of recipients. However, this matter is taught by Angles as the advertising module selecting the recipient as part of a group of recipients (column 15 lines 20-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the marketing agent in Alberts' teaching to select the recipient as part of a group of recipients so that the advertisements can be more efficiently targeted to recipients.

As to claim 9, Alberts teaches the marketing agent selecting a plurality of messages for co-transmission to the recipient (column 3 lines 22-28).

As to claim 11, Alberts teaches the step of the recipient electronically responding to the message includes the recipient opening the message using a computer (column 1 lines 12-16 and column 4 lines 25-27).

As to claim 12, Alberts teaches the step of the recipient electronically responding to the message includes the message having multiple pages, and the recipient navigating between at least two of the multiple pages (column 1 lines 9-20 and column 2 lines 62-65 and column 4 lines 25-27; specifically, *"the message having multiple pages" is interpreted as the message having HTML links which will direct the recipient to different information pages, and the recipient navigates information pages by clicking on the links.*)

As to claim 13, Alberts teaches the step of tracking the response includes the recipient displaying the message sing a computer, and the computer sending an item of tracking information to a track system (column 4 lines 4-33).

As to claim 14, Alberts teaches wherein the step of providing the marked agent with a piece of information relating to the respond includes displaying to the marketing agent a piece of information relating to a hyperlink contained in the message and utilized by the recipient (column 2 lines 62-65 and column 4 lines 4-27).

As to claim 15, Alberts teaches the manager considering a percentage of responses received by the marketing agent relative to a number of sends initiated by the marketing agent (column 4 lines 4-27).

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alberts, U. S. Patent 5,937,392 in view of Angles et al., U. S. Patent 5,933,811 in further view of Boe et al., U. S. Patent 6,236,975.

As to claim 5, Alberts modified by Angles teaches a set of advertising messages as discussed above. Alberts modified by Angles does not explicitly teach the set of advertising messages includes an advertising logo. However, this matter is taught by Boe as the customer is provided with targeted customized information including logos (column 6 lines 9-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the set of advertising messages in the teaching of Alberts modified by Angles to include an advertising logo for better attract the advertisement recipients to review the advertising messages.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alberts, U. S. Patent 5,937,392 in view of Angles et al., U. S. Patent 5,933,811 in further view of Marsh et al., U. S. Patent 5,848,397.

As to claim 10, Alberts modified by Angles teaches the marketing agent electronically sending the message to the recipient as discussed above. Alberts modified by Angles does not explicitly teach the marketing agent initiating the sending of message using an e-mail interface. However, this matter is taught by Marsh as distributing advertising messages using an e-mail interface (column 2 line 65 – column 4 line 44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the message in the teaching of Alberts modified by Angles to be sent by using an e-mail interface because this would allow the marketing agent to send the message faster and economically.

6. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alberts, U. S. Patent 5,937,392 in view of Angles et al., U. S. Patent 5,933,811 in further view of Capek, U. S. Patent 6,026,369.

As to claim 16, Alberts further teaches:

- a) Providing a second marketing agent with a second set of advertising messages (column 3 lines 29-60 and Figs. 1-3; specifically, “*a second marketing agent*” corresponds to one of the plurality of AD Server as shown in Fig. 1);
- b) The second marketing agent taking an active role in selecting a second message from the second set of advertising messages; and electronically

sending the message to the second recipient (column 3 lines 22-25 and column 4 lines 33-54 and Figs. 1-4);

- c) The second recipient electronically responding to the second message (column 4 lines 25-27);
- d) Tracking the second recipient electronically responding to the second message (column 4 lines 11-27).

Alberts does not explicitly teach providing the second marketing agent with a second set of prospect information. However, this matter is taught by Angles as providing the registration module with consumer profile information (column 3 lines 18-23, 54-61 and column 17 lines 3-10, 18-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the second marketing agent in Alberts' teaching to be provided with a second set of prospect information so that the advertisements can be more efficiently targeted to recipients.

Alberts modified by Angles does not specifically teach the second marketing agent distinct from the first marketing agent. However, this matter is taught by Capek as pluralities of the marketing agents (*access provider AP-1, AP-2, AP-3, AP-4 in Fig. 1*) are distinct from each other (column 3 lines 17-48 and Fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the second marketing agent in the teaching of Alberts modified by Angles to be distinct from the first marketing agent as taught by Capek because this would allow the advertisements to be more efficiently distributed between the two marketing agents so that the advertisements can be better targeted to the recipients.

As to claim 17, Alberts teaches the manager exercising at least some control over the message provided to the marketing agent, and Albert modified by Angles teaches providing the marketing agent with a set of prospect information as discussed in claims 1 and 16 above. Alberts does not specifically teach the manager exercising at least some control over the set of prospect information provided to the marketing agent. However, this matter is taught by Angles as the advertisement provider exercising at least some control over the set of prospect information to the marketing agent (column 18 line 61 – column 19 line 11 and Fig. 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the manager in Alberts' teaching to have at least some control over the set of prospect information so that the advertisements can be better targeted to the recipients based on the set of prospect information.

Alberts modified by Angles does not specifically teach the manager exercising at least some control over a relationship between the set of prospect information provided to the marketing agent and the second marketing agent. However, this matter is taught by Capek as the control distribution node has control over a relationship among the information provided to the plurality of the access providers (column 3 line 15 – column 4 line 7 and Fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the manager in the teaching of Alberts modified by Angles to include the feature of having control over a relationship among the information provided to the different marketing agents because this would allow the advertisements

to be more efficiently distributed among different marketing agents so that the advertisements can be better targeted to the recipients.

As to claim 18, Alberts teaches the manager exercising some control over the set of advertising messages provided to the marketing agent as discussed in claim 1 above. Alberts further teaches the manager exercising some control over the second set of advertising messages provided to the second marketing agent (column 3 lines 28-60 and Fig. 1; *specifically, "the second marketing agent" corresponds to one of the plurality of the AD Servers in Fig. 1*). Alberts does not specifically teach the manager exercising at least some control over a relationship between the set of advertising messages provided to the marketing agent and the second set of advertising messages provided to the second marketing agent. However, this matter is taught by Capek as the control distribution node has control over a relationship among the information provided to the plurality of the access providers (column 3 line 15 – column 4 line 7 and Fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the manager in the teaching of Alberts modified by Angles to include the feature of having control over a relationship among the information provided to the different marketing agents because this would allow the advertisements to be more efficiently distributed among different marketing agents so that the advertisements can be better targeted to the recipients.

As to claim 19, Alberts teaches the manager exercising some control over the authorized number of sends allocated to the marketing agent as discussed in claim 1 above. Alberts further teaches the manager exercising some control over an authorized

number of sends allocated to the second marketing agent (column 3 lines 28-60 and Fig. 1; specifically, “*the second marketing agent*” corresponds to one of the plurality of the AD Servers in Fig. 1). Alberts does not specifically teach the manager exercising at least some control over a relationship between the authorized number of sends allocated to the marketing agent and an authorized number of sends allocated to the second marketing agent. However, this matter is taught by Capek as the control distribution node has control over a relationship among the information provided to the plurality of the access providers (column 3 line 15 – column 4 line 7 and Fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the manager in the teaching of Alberts modified by Angles to include the feature of having control over a relationship among the information provided to the different marketing agents because this would allow the advertisements to be more efficiently distributed among different marketing agents so that the advertisements can be better targeted to the recipients.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Melchione et al. (U. S. Patent 5,966,695) discloses an electronic sales and service support system and method for identifying sales targets using a centralized database to improve marketing success.

Gerace (U. S. Patent 5,991,735) discloses providing targeting of appropriate audience of based on psychographic or behavioral profiles of end users.

Verba et al. (U. S. Patent 6,236,977) discloses a campaign engine selectively generates and stores a campaign population, representing different types of marketing campaigns.

Eldering (U. S. Patent 6,298,348) discloses the consumer profiles can be accessed by advertisers who transmit information characterizing their ads.

Kramer et al. (U. S. Patent 6,327,574) discloses providing for the interpretation and augmenting of structured documents electronically delivered to an individual consumer's computer using consumer profiles developed from and maintained with information reflecting the consumer's online and offline transactions.

Nakisa (JP 2000235605A) discloses improving affinity between a character and a consumer access advertisement display incorporating the character by providing a means which a customer access display and can execute a purchase behavior in accordance with the display and a means updating a marketing function by depending on the purchase of the customer.

Inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is (703)-305-0084. The examiner can normally be reached on Monday – Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

The fax phone number for the organization where this application or proceedings is assigned are as follows:

(703) 872-9306 (Official Communications; including After Final Communications labeled "BOX AF")

(703) 746-5619 (Draft Communications)

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, 7th Floor Receptionist.

Mary Cheung
Patent Examiner
Art Unit 3621
December 9, 2003

